



Docket No.: 05500-00073-USC
PM00028-CON2 (PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gary O. Maupin et al.

Conf. No.: 5949

Application No.: 10/690,411

Group Art Unit: 3644

Filed: October 21, 2003

Examiner: Smith, Kimberly S.

For: APPARATUS FOR APPLYING CHEMICALS
TO RODENTS

DECLARATION UNDER 37 CFR §1.132

I, Gary O. Maupin, hereby declare as follows:

1. That I am a citizen of the United States of America and that I currently live at 907 N. Halifax Drive, Ormond Beach, FL 32176.
2. That I have read and understood the specification, claims and drawings of U. S. Patent Application Serial No. 10/690,411, for which I am an inventor.
3. That I am one of the co-authors of a presentation entitled "The MAXFORCE® Tick Management SystemTM and its Role In Reducing the Incidence of Lyme Disease", that was presented at the National Conference on Urban Entomology, May 20-22, 2004, in Phoenix, Arizona.
4. That I was also intimately involved in the development and field trials of the "boxes" described in the aforementioned presentation in Mason's Island, Connecticut, in 1999, and Needham, Massachusetts, in 2001.
5. That I am familiar with the design and use of the boxes that were used in the aforementioned field trials.

6. That the boxes used in the Mason's Island, Connecticut, field trial in 1999 (hereinafter the "MI field trial"), contained, as the "chemical" (i.e., insecticide), Fipronil and no other insecticide.
7. That the boxes used in the MI field trial, contained, as the applicators: (1) a wick composed of a piece of cotton mop string that was connected to the box by staples or glue and hung down from the lid of the box into the interior of the box; and (2) rectangular strips of kitchen scrub pads (large pore sponge material) that were fixed to the lower walls and/or floor of the box by staples or glue.
8. That neither the cotton mop string applicator nor the kitchen scrub pad applicators were attached to or suspended from a "horizontal support member", as that term is used in U.S. Patent Application Serial No. 10/690,411.
9. That the kitchen scrub pad applicators were fixed to the lower wall and/or floor of the boxes and, as such, they were not suspended into said enclosure and, although they were deformable, they did not constitute a "flexible web", as that term is used in U.S. Patent Application Serial No. 10/690,411.
10. That the cotton mop string applicator did not include or constitute a "flexible web" as that term is used in U. S. Patent Application Serial No. 10/690,411.
11. That the structure of the interior of the boxes could not be seen from the outside of the boxes.
12. That during the MI field trial, the boxes were first placed in the field on May 16 or 17, 1999, and that the boxes were first checked on about June 25, 1999.
13. That the data collected on June 25, 1999, was only preliminary data that was insufficient to determine if the boxes were working for their intended purpose.
14. That after the June 25, 1999, check of the boxes, the boxes were checked approximately once each month until September 1999, when the field trial ended.

15. That the data from the field trial was not completely compiled and analyzed until after the last check of the boxes in September of 1999.

16. That the MI field trial was carried out for experimental purposes to determine whether the design of the boxes was such that the boxes would work for their intended purpose.

17. That the MI field trial was not carried out for commercial purposes.

18. That during the MI field trial, the boxes were under the control of myself or my assistants.

20. That the design of the boxes used in the MI field trial was different than the apparatus that is shown in U.S. Patent Application Serial No. 10/690,411, at least in that the apparatus described and claimed in Serial No. 10/690,411 includes at least one applicator that comprises a "flexible web".

I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed:


Gary O. Maupin

Dated:

September 2, 2005